

### DETAILED ACTION

1. The amendment filed on July 24, 2008 has been entered.

#### *Election/Restrictions*

2. Newly submitted claims 20-22 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:

Group I, claims 12-18, directed to a device with a specific blade cutter configuration, a specific handle configuration and a specific guide configuration;

Group II, claims 20-22, directed to a device with a specific blade connection configuration.

Claim 11 links inventions I and II. The restriction requirement of the linked inventions is **subject to** the nonallowance of the linking claim(s), claim 11. Upon the indication of allowability of the linking claim(s), the restriction requirement as to the linked inventions **shall** be withdrawn and any claim(s) depending from or otherwise requiring all the limitations of the allowable linking claim(s) will be rejoined and fully examined for patentability in accordance with 37 CFR 1.104. **Claims that require all the limitations of an allowable linking claim** will be entered as a matter of right if the amendment is presented prior to final rejection or allowance, whichever is earlier. Amendments submitted after final rejection are governed by 37 CFR 1.116; amendments submitted after allowance are governed by 37 CFR 1.312.

Claim 19 will be examined with the elected group.

Applicant(s) are advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, the allowable linking claim, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Where a restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. *In re Ziegler*, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

Inventions I and II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable. In the instant case, the subcombination of Group I has separate utility such as without the specific blade connection configuration of Group II. Conversely, Group II has separate utility such as without the specific cutter, handle and/or guide configurations of Group I. See MPEP § 806.05(d).

The examiner has required restriction between subcombinations usable together. Where applicant elects a subcombination and claims thereto are subsequently found allowable, any claim(s) depending from or otherwise requiring all the limitations of the allowable subcombination will be examined for patentability in accordance with 37 CFR 1.104. See MPEP § 821.04(a).

Applicant is advised that if any claim presented in a continuation or divisional

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application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 20-22 have been withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

### ***Drawings***

3. The drawings were received on July 24, 2008. These drawings are acceptable.

### ***Specification***

4. The disclosure is objected to because of the following informalities:  
In replacement paragraph 0032, line 2, "31" should be changed to -5--.  
Appropriate correction is required.

### ***Claim Objections***

5. Claims 11-19 are objected to because of the following informalities:

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In claim 11, line 1, "a groove" lacks antecedent basis with respect to the specification, and it is suggested in paragraph 0026, line 2, to change "feedthroughs 3" to --feedthroughs or grooves 3-- or the like.

Appropriate correction is required.

***Claim Rejections - 35 USC § 112, 2nd paragraph***

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 11-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 11, line 2, "with" is vague as to what it refers (i.e., the device or the groove); in line 11, the recitation "the side surfaces" lacks positive antecedent basis, and is vague and indefinite as to how it relates to the recitation of "sidewalls" in line 2; in lines 25-26, the recitation "with respect to the direction along which the base is drawn along the block of material in cutting the groove" is vague and indefinite as to what direction is being set forth, particularly since the direction is being defined in terms of an action taken with the device, which depends on how the device is used, rather than in terms of claimed structural features of the device.

***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 11, 14-17 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by O'Neal, pn 3,596,356.

O'Neal discloses a device with every structural limitation of the claimed invention including:

a base (e.g., 12) having a generally planar surface;

a handle (e.g., 11) attached to the base for drawing the base across the exterior surface of the block of material in cutting a groove in the block of material; and

first and second blades (e.g., 23, 23) fastened to the base, the first and second blades respectively including:

first and second lateral portions (e.g., the vertically extending portions of 23 as viewed in Fig. 1) generally transverse to the planar surface of the base and including respective cutting edges (e.g., 31, 31, 32, 32) for cutting the side surfaces of the groove in the block of material, and

first and second free end portions (e.g., 26, 26) extending from the first and second lateral portions, respectively, generally parallel to the planar surface of the base, transverse to the first and second lateral portions, and including respective first and

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second cutting edges (e.g., 36, 36, 37, 37) for cutting respective portions of the bottom surface of the groove, wherein

the first and second cutting edges of the first and second free end portions of the first and second blades are generally directed toward each other between the first and second lateral portions of the first and second blades (e.g., as shown in Figs. 1 and 2),

the first and second cutting edges of the first and second free end portions of the first and second blades are generally co-planar (e.g., as shown in Fig. 1), and

the first cutting edge of the first free end of the first blade (e.g., edge 36 of the left occurrence of 26 as viewed in Fig. 2) is offset from and at least partially located forward of the second cutting edge of the second free end of the second blade (e.g., edge 37 of the right occurrence of 26 as viewed in Fig. 2) with respect to the direction along which the base is drawn along the block of material in cutting the groove;

[claim 14] wherein the first and second lateral portions of the first and second blades have elongated shapes and extend obliquely from the planar surface of the base (e.g., as shown in Fig. 3);

[claim 15 (from 14) wherein the first and second lateral portions extend obliquely from the base along a direction angled away from a direction perpendicular to the planar surface of the base and toward a direction of drawing of the base across the block of material in cutting the groove (e.g., as shown in Fig. 3);

[claim 16 (from 15)] wherein the handle has an elongated shape and extends from the base in a direction substantially parallel to the first

and second lateral portions of the first and second blades and generally along the direction of drawing (e.g., as shown in Figs 1 and 3);

[claim 17] wherein the handle has an elongated shape and extends from the base in a direction substantially parallel to the first and second lateral portions of the first and second blades (e.g., as shown in Figs. 1 and 3);

[claim 19] wherein the first and second blades are detachably fastened to the base (e.g., by the fastening structure shown in Fig. 1 including 27, 28, 29).

### ***Claim Rejections - 35 USC § 102/103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 11, 12, 14, 17 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by, or in the alternative, obvious in view of Moldowan, pn 2,650,532.

Moldowan discloses a device with every structural limitation of the claimed invention including:

a base (e.g., 1, 2, 17, 20) having a generally planar surface (e.g., the lower extended horizontal surfaces of 1 and 2, the upper surfaces of which are shown in Fig. 2);

a handle (e.g., 14) attached to the base for drawing the base across the exterior surface of the block of material in cutting a groove in the block of material; and

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first and second blades (e.g., 6, 7) fastened to the base, the first and second blades respectively including:

first and second lateral portions (e.g., 6a, 6b) generally transverse to the planar surface of the base and including respective cutting edges (e.g., 23, 23) for cutting the side surfaces of the groove in the block of material, and

first and second free end portions (e.g., the portion contacted by the lead lines for numerals 6 and 7 as viewed in Fig. 3) extending from the first and second lateral portions, respectively, generally parallel to the planar surface of the base, transverse to the first and second lateral portions, and including respective first and second cutting edges (e.g., 11, 12) for cutting respective portions of the bottom surface of the groove, wherein

the first and second cutting edges of the first and second free end portions of the first and second blades are generally directed toward each other between the first and second lateral portions of the first and second blades (e.g., as shown in Figs. 2 and 3),

the first and second cutting edges of the first and second free end portions of the first and second blades are generally co-planar (e.g., as shown in Figs. 1 and 3), and

the first cutting edge of the first free end of the first blade is offset from and at least partially located forward of the second cutting edge of the second free end of the second blade with respect to the direction along which the base is drawn along the block of material in cutting the groove (e.g., as shown in Fig. 3, the cutting edge in the area where the lead line for numeral 10 contacts the blade 7 is offset and in front of the cutting edge in the area where the lead line for numeral 13a contacts the blade 6);



[claim 12] wherein the first and second cutting edges of the first and second free ends, together, extend across substantially all of a distance separating the first and second lateral portions of the first and second blades from each other (e.g., as shown in Figs. 2, 3);

[claim 14] wherein the first and second lateral portions of the first and second blades have elongated shapes and extend obliquely from the planar surface of the base (e.g., as shown in Figs. 1, 3);

[claim 17] wherein the handle has an elongated shape and extends from the base in a direction substantially parallel to the first and second lateral portions of the first and second blades (e.g., as shown in Figs. 1 and 2);

[claim 19] wherein the first and second blades are detachably fastened to the base (e.g., by the fastening structure including 3, 4, 5).

In the alternative, if it is argued that the handle (e.g., 14) of Moldowan is not attached to the base for drawing the base, the Examiner takes Official notice that it is old and well known in the art to provide handles that extend in front of a tool/device for pulling the tool/device rather than behind the tool/device for pushing the tool/device as disclosed in Moldowan, and that such a handle configuration has various well known obvious benefits including the inherent mechanical advantage gained by pulling rather than pushing, as well as facilitating the tool/device to be attached and pulled by machines or other automated devices. Examples are extremely common, numerous and old and include handles on plowing devices and many and various other farming/landscaping devices. Therefore, it would have been obvious to one having ordinary skill in the art to

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provide such a handle configuration on the device of Moldowan for the well known benefits including those described above.

***Claim Rejections - 35 USC § 103***

12. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over O'Neal, pn 3,596,356 in view of Chang, pn 5,231,764 and/or Lang, Jr., pn 5,265,342.

O'Neal discloses a device with almost every structural limitation of the claimed invention as described above, but lacks:

a guide T having a longitudinal profile with a right angle cross-section and a crossbar integral with the profile, wherein the base includes means for detachable fixation of the crossbar to the base and for adjustment of distance between the base and the guide T.

However, such T-guides are old and well known in the art and provide various well known benefits including providing structure to reliably make a longitudinal cut parallel to an edge of a workpiece, and to provide such a cut at a desired distance from the edge. T-guides having a variety of configurations for a variety of tools are known. Chang and Lang, Jr. each disclose an example of such T-guides. Therefore, it would have been obvious to one having ordinary skill in the art to provide such a T-guide on the device of O'Neal to gain the well known benefits including that described above.

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13. Claims 11-15 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Rancour et al., pn 5,077,899 in view of Cunningham, Jr., pn 4,983,081.

Rancour discloses a device with almost every structural limitation of the claimed invention including:

a base (e.g., 90) having a generally planar surface;

a handle (e.g., 14) attached to the base for drawing the base across the exterior surface of the block of material in cutting a groove in the block of material; and

first and second blades (e.g., 100, 101) fastened to the base, the first and second blades respectively including:

first and second lateral portions (e.g., 112, 122) generally transverse to the planar surface of the base and including respective cutting edges (e.g., 115 of 112, 125 of 122) for cutting the side surfaces of the groove in the block of material, and

first and second free end portions (e.g., 113, 123) extending from the first and second lateral portions, respectively, generally parallel to the planar surface of the base, transverse to the first and second lateral portions, and including respective first and second cutting edges (e.g., 115 of 113, 125 or 123) for cutting respective portions of the bottom surface of the groove, wherein

the first and second cutting edges of the first and second free end portions of the first and second blades are generally directed toward each other between the first and second lateral portions of the first and second blades, and

the first cutting edge of the first free end of the first blade is offset from and at least partially located forward of the second cutting edge of the second free end of the

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second blade with respect to the direction along which the base is drawn along the block of material in cutting the groove (e.g., as shown in Figs. 4, 8);

[claim 12] wherein the first and second cutting edges of the first and second free ends, together, extend across substantially all of a distance separating the first and second lateral portions of the first and second blades from each other;

[claim 13] wherein the first and second free ends have respective first and second rear edges (e.g., 116, 126) that are at least partially turned toward the base for lifting cut material of the block of material from the groove as the groove is being cut;

[claim 14] wherein the first and second lateral portions of the first and second blades have elongated shapes and extend obliquely from the planar surface of the base (e.g., as shown in Figs. 4, 8);

[claim 19] wherein the first and second blades are detachably fastened to the base (e.g., by the fastening structure including 102).

Rancour lacks:

the first and second cutting edges of the first and second free end portions of the first and second blades are generally co-planar. However, such a coplanar configuration is old and well known in the art and provides well known benefits including facilitating the cutting of rectangular grooves. Cunningham discloses one example of such a cutting device configuration (e.g., see Figs. 2, 7). Therefore, it would have been obvious to one having ordinary skill in the art to provide the cutting device of Rancour in such a configuration to gain the well known benefits including those described above and taught by Cunningham.

***Response to Arguments***

14. Applicant's arguments with respect to new claims 11-19 have been considered but are moot in view of the new ground(s) of rejection. It is noted, however, that contrary to applicant's argument in the fourth paragraph on page 9 of the response, there is no recitation of "overlap" in the claim 11.

***Conclusion***

15. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clark F. Dexter whose telephone number is (571)272-

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4505. The examiner can normally be reached on Mondays, Tuesdays, Thursdays and Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer D. Ashley can be reached on (571)272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

**/Clark F. Dexter/  
Primary Examiner, Art Unit 3724**

cfd  
October 21, 2008